

COMMONWEALTH OF PENNSYLVANIA



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August 10, 2023

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of Columbia Water Company for
Approval of a Lead Service Line Replacement
Program, Related Tariff Changes,
Modification of Long-Term Infrastructure
Improvement Plan, and Waiver of
Termination Regulations
Docket No. P-2023-3041845

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer to the Petition of Columbia Water Company in the above-referenced proceeding. As required under the Commission's regulations, the Office of Consumer Advocate's Answer is accompanied by a verification in accordance with 52 Pa. Code Section 1.36.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman
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Enclosures:

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Certificate of Service

*4889-4749-1446

CERTIFICATE OF SERVICE

Petition of Columbia Water Company for :
Approval of a Lead Service Line Replacement :
Program, Related Tariff Changes, Modification : Docket No. P-2023-3041845
of Long-Term Infrastructure Improvement Plan, :
and Waiver of Termination Regulations :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer to Columbia Water Company, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 10th day of August 2023.

SERVICE BY E-MAIL ONLY

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Dated: August 10, 2023
*4877-8186-7894

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Columbia Water Company Verified Letter :
Petition for Partial Waiver of Lead Service : Docket No. P-2023-3041845
Line Replacement Regulations Due to :
Absence of Lead Service Lines :

ANSWER
OF THE
OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

On July 21, 2023, the Columbia Water Company (Columbia or Company or CWC) filed with the Pennsylvania Public Utility Commission (Commission) a Petition seeking approval of a Lead Service Line Replacement Program (LSLR Program) and tariff revisions that will allow it to replace customer-owned lead service lines (COLSL), and to recover those costs as provided in Section 1311(b)(2) of the Public Utility Code, which was added to the Public Utility Code pursuant to Act 120 of 2018. 66 Pa. C.S. § 1311(b)(2). As required by Commission regulations implementing Act 120 of 2018, 52 Pa. Code §§ 65.51-65.62, the Company attached to its Petition a modified Long-Term Infrastructure Improvement Plan (LTIIP).

In this Answer, the OCA makes recommendations for the Commission's consideration in reviewing the Petition including the proposed modified LTIIP. As discussed below, additional information will be necessary for the Commission to determine whether the proposed LSLR

additions to the LTIP are prudent and cost-effective and will maintain safe, reliable, and reasonable service as required by 66 Pa. C.S. §§ 1352(a)(5), (a)(6) and 1353.

II. ANSWER

A. Introduction

The proposed LSLR program and plan will allow the Company to recover the costs for LSL replacements, both Company-owned and customer-owned, through its base rates and DSIC. 66 Pa. C.S. § 1311(b)(2). For customers, the LSLR plan has the potential to provide both financial and public health benefits.

Section 1311(b)(2) of the Public Utility Code provides a process to eliminate the individual financial burden for replacing customer-owned LSLs by recovering those costs over the Company's entire customer base. If a customer could not have otherwise afforded the replacement of the line, the customer will be able to maintain essential water service. The lead service line also poses a direct health risk to customers. An LSLR program can protect public health by helping to ensure the timely removal of the customer-owned LSL.

The OCA appreciates the Company's filing of its proposed LSLR plan and amended LTIP in furtherance of the goal of coordinating Company-owned and customer-owned LSL replacements and providing the benefits above. In the OCA's Answer to the Petition and in these Comments herein, the OCA identifies some additional information that may be necessary for the Commission to determine that the proposed modified LTIP including an LSLR plan meets the requirements for LTIP approval, *i.e.* the planned improvements are prudent and cost-effective, and will maintain safe, reliable and reasonable service as required by 66 Pa. C.S. §§ 1352(a)(5), (a)(6) and 1353. The OCA is willing to work with the Company to develop a fair and equitable way to implement its program so that the public health and safety issues are fully addressed. The

OCA submits that a record should be developed to answer these questions and concerns, and others that arise during review, prior to approval of the modified LTIP and LSLR Plan.

B. OCA Questions and Recommendations

Based on the OCA's preliminary review, the OCA has the following concerns regarding the modified LTIP and proposed LSLR plan:

1. Service Line Inventory

As part of Columbia's Petition, Columbia prepared a Service Line Inventory and noted that Columbia plans to identify, at a minimum, a cumulative average of 10% of the initial unknown service materials annually by means of utilizing existing records, modeling, statistical analysis, and mechanical excavation. Petition at 8-9. Additionally, Columbia noted that it plans to replace approximately 50 lead service lines per year at a projected annual investment of \$250,000 at an average cost of \$5,000 per LSLR. Petition at 9.

Under the EPA's regulations, all water systems must develop an inventory to identify the materials of service lines connected to the public water distribution system by October 16, 2024 **which must include all** service lines connected to the public water distribution system regardless of ownership status. 40 C.F.R. § 141.84 (emphasis added). The OCA seeks clarification as to whether the lead service lines indicated in Columbia's Service Line Inventory include both customer and company owned lead service lines and whether the 50 lines per year are customer-owned only or include company-owned LSL.

2. Prioritizing Lead Service Line Replacements

Columbia's Petition notes that, with respect to replacing LSLs in conjunction with main replacements, once the target area is determined, the projects will be posted on Columbia's website at least six (6) months in advance of the work being done. Petition at 10. CWC then states that "Columbia Water staff will reach out to the customers to determine all service line materials within the affected area, and to provide the customers with detailed information regarding the routine procedures and the potential health risks involved." *Id.*

Columbia further indicated that, in determining which water mains in the distribution should be replaced, "[p]rior to choosing a target area, the Company's distribution crew will review records and/or physically inspect a portion of the service lines within a proposed area to gauge the likelihood of lead within that area." Petition at 10. The OCA seeks clarification as to how the target area is determined and whether work is being done in the target area by survey and/or if lead is reported in the area.

The OCA seeks clarification regarding when and how the Columbia staff will reach out to customers. The OCA recommends that CWC staff use multiple methods to raise awareness for the customers and contact customers multiple times over the six-month period to determine whether there are customer lead service lines and to verify the presence of the customer-owned lead service line. In addition, Columbia should begin providing information to its customers on a regular basis on how to identify whether the line coming into the home is made of lead.¹ Raising awareness of the issue and providing a method for its customers to make an initial determination of whether the line is made of lead, will be beneficial to prioritizing the areas for LSL replacement.

¹ For example, see Lead Service Line Replacement Collaborative for customer focused materials in English and Spanish, available at: <https://www.lslr-collaborative.org/> (last accessed Aug. 9, 2023).

3. Process and Procedures to Obtain Acceptance of a LSLR

As part of Columbia's Petition, Columbia states that, when a lead service line is discovered at a property, Columbia will contact the customer(s) and/or property owner(s) to let them know of the LSL discovery. Petition at 12. The OCA seeks clarification as to whether, when Columbia reaches out to the customer(s) and/or property owner(s), the customer/property owner will be informed of the dangers of lead service lines via telephone or whether the customer/property owner will need to wait in order to receive information on lead service lines electronically or through the mail. In addition, the materials should provide specific information about steps the customer can take until the replacement of the line is completed.

Columbia further states that, with regard to LSLs that cross through a single or multiple properties and Columbia's attempts to gain all of the property owners consent to replace these lines, that "[i]f the Company is unable to obtain the neighboring property owner or owners' consent, and there is no other viable and economic solution (to be determined in the Company's sole discretion) such as installing conforming service lines, the Company will commence procedures to terminate service to the neighboring property owner or owners' property as set forth Section III.J, *infra*." Petition at 13. The OCA seeks clarification/elaboration on what, specifically, the Company is referring to regarding viable and non-viable economic solutions.

Columbia also states that water services will be terminated at the properties if no viable and economic solution is found. Petition at 13. The OCA seeks clarification as to what notice the affected customer(s)/property owner(s) would be given before service is terminated and how many notices they will receive. Moreover, in the event that the affected customer(s)/property owner(s) reside in a multi-resident building or property, the OCA seeks clarification as to whether each resident be sent notice of the impending termination and, if so, how notice would occur and

whether multiple notices would be provided. The OCA believes that termination of service should be a last resort and that Columbia must take all reasonable steps to avoid this outcome and create few barriers to reconnection once a customer consents to allow Columbia to replace their lead service line.

Additionally, Columbia states that customers will be given a pitcher-filter prior to the LSLR. Petition at 13. The EPA's regulations state as follows:

(2) If the disturbance of a lead, galvanized requiring replacement, or lead status unknown service line results from the replacement of an inline water meter, a water meter setter, or gooseneck, pigtail, or connector, the water system must provide the person served by the water system at the service connection with information about the potential for elevated lead levels in drinking water as a result of the disturbance, public education materials that meet the content requirements in paragraph (a) of this section, **a pitcher filter or point-of-use device certified by an American National Standards Institute accredited certifier to reduce lead, instructions to use the filter, and six months of filter replacement cartridges.** The water system must comply with the requirements of this paragraph (f)(2) before the affected service line is returned to service.

40 C.F.R. § 141.85(f) (emphasis added).

Moreover, an example of a filter for lead being provided to customers who had a confirmed LSL and were awaiting the replacement was reflected in a recent settlement.²

² Aqua agreed to the following:

21. The Company will provide a National Sanitation Foundation-approved water filter for lead (pitcher or tap filter) to residential customers who request (or if the customer occupies a rental property, the property-owner has made, or has authorized the customer to make, such request) that Aqua replace a COLSL, provided that:

- a. Aqua has verified that the customer has a LSL; and
- b. The Company's testing of water from the customer's tap shows that the water has a lead level above the action level established by the Pennsylvania Department of Environmental Protection under the EPA's LCR.

...

24. The Company will provide a National Sanitation Foundation ("NSF") approved water filter for lead (pitcher or tap filter) to residential customers waiting for Part 2 replacements, provided that Aqua has verified that the customer has a LSL and testing from

The OCA seeks clarification as to whether replacement filters will be provided until the replacement of the customer-owned lead service line is replaced, as well as the process and means by which customers will be contacted regarding their receipt of a pitcher filter.

4. Post-Replacement Procedures

As part of its Petition, Columbia states “[i]f either of the follow up samples exceed 15 ppb of lead, Columbia Water will provide the results of both samples to residents as soon as practicable but no later than three calendar days after becoming aware of the results. If none of the follow up samples exceed 15 ppb of lead, Columbia Water shall provide the results of the samples to residents within 30 days after receiving the results.” Petition at 15. The EPA’s regulations state as follows:

- (i) For individual samples that do not exceed 15 µg/L of lead, no later than 30 days after the water system learns of the tap monitoring results.
- (2) Timing of notification. A water system must provide the consumer notice as soon as practicable but no later than the following timeframes:
 - (ii) For individual samples that exceed 15 µg/L of lead, as soon as practicable but no later than 3 calendar days after the water system learns of the tap monitoring results. Water systems that choose to mail the notification must assure those letters are postmarked within three days.

40 C.F.R. § 141.85(d)(2).

The OCA recommends that Columbia add language of this commitment to its Lead Service Line Replacement Sampling Procedure Form (Appendix I of Petition) so that customers can be fully informed within a reasonable timeframe. *See* Petition at 15; App. I.

5. LSLR Refusal

the customer’s tap shows that the water has a lead level above the action level established by the LCR.

Petition of Aqua Pennsylvania, Inc. for Approval of Tariff Changes Authorizing Replacement of Customer-Owned Lead Service Lines, Docket No. P-2020-3021766, Settlement at 7-8 (Apr. 23, 2021); *Petition of Aqua Pennsylvania, Inc. for Approval of Tariff Changes Authorizing Replacement of Customer-Owned Lead Service Lines*, Docket No. P-2020-3021766, Order (July 15, 2021).

In the Company's Petition, Columbia states as follows: "Columbia Water will not connect an Applicant to water service where a property owner previously refused or failed to accept the utility's offer of a LSLR until the Applicant verifies that the replacement of a customer-owned LSL by providing a paid invoice from a licensed contractor or notarized statement from a licensed contractor attesting to completion of the LSLR." Petition at 17.

The OCA recommends that, when a new applicant applies for water service, the new applicant should be offered the same lead service line replacement options as the previous property owner. The new property owner as an applicant should not be bound by a previous owner's refusal to replace the lead service line. As the Company would be informed of the new property owner through an application, and as the Company's Lead Service Line Replacement Approval Form (Petition at App. N) does not make a distinction between applicants/property owners/customers, new applicants/residents should not be penalized for the decisions of previous property owners and/or residents.

6. Publicly Accessible Website

As part of Columbia's Petition, Columbia discusses the development of an LSLR section of the Company's website. *See* Petition at 18. The OCA recommends that the LSLR website and any documentation regarding LSLR should also be available in Spanish and other languages upon the request of customers.

7. Reimbursement

The Company's Petition discusses the procedure by which eligible customers or property owners will receive a reimbursement. Petition at 21-22; see 66 Pa. C.S. § 1311(b)(2)(vi). The Company should commit to developing outreach materials and a plan that will make its customers aware of the reimbursement program. The OCA recommends that any forms and instructions necessary for a customer or owner to receive reimbursement should be mailed physically and electronically to potentially eligible customers and owners, along with the forms remaining available on the company's website.

8. Outreach

The Company should develop an ongoing communications plan for its LSLR that should include direct mailings to notify potentially affected customers about the program, press releases, bill inserts, and information on the Company's website regarding the health effects of lead and COLSLs, including flushing instructions. In addition to information on COLSLs, this customer outreach and communication should also include information for low-income customers on customer assistance programs. The Company should be required to share with the statutory advocates the communications materials to be used in its communication plan and to work with the parties to develop an outreach process for communications related to LSLR.

III. CONCLUSION

The Office of Consumer Advocate generally supports Columbia Water Company's goal of replacing customer-owned lead service lines. The Office of Consumer Advocate requests that the Petition be referred to the Office of Administrative Law Judge for hearings on issues raised by the OCA's Answer.

Respectfully submitted,

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DATED: August 10, 2023


BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Columbia Water Company for :
Approval of a Lead Service Line :
Replacement Program, Related Tariff : Docket No. P-2023-3041845
Changes, Modification of Long-Term :
Infrastructure Improvement Plan, and :
Waiver of Termination Regulations :

VERIFICATION

I, Patrick M. Cicero, hereby state that the facts set forth in the Office of Consumer Advocate's Answer to the Petition of Columbia Water Company, are true and correct (or are true and correct to the best of my knowledge, information, and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: August 10, 2023

Signature:  _____
Patrick M. Cicero
Consumer Advocate

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